

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES SCOTT NEWMAN,

Petitioner,

v.

CASE NO. 2:17-CV-11055
HONORABLE VICTORIA A. ROBERTS

NEIL TURNER,

Respondent.

**OPINION AND ORDER DISMISSING THE PETITION FOR A WRIT OF
HABEAS CORPUS AND DENYING A CERTIFICATE OF APPEALABILITY**

The Court has before it Petitioner James Scott Newman's pro se Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2254. Petitioner did not pay the required filing fee when he instituted this action, nor did he submit an Application to Proceed In Forma Pauperis. *See* 28 U.S.C. § 1914(a); 28 U.S.C. § 1915; Rule 3 of the Rules Governing § 2254 Cases. The Court, therefore, issued an Order to Correct Deficiency on April 5, 2017 requiring Petitioner to either pay the filing fee or submit a properly completed in forma pauperis request. The Order provided that if he did not do so within 21 days (April 26, 2017), his case would be dismissed. The time for submitting the filing fee or required information has elapsed and Petitioner has failed to correct the deficiency. Accordingly, the Court **DISMISSES WITHOUT PREJUDICE** the Petition for a Writ of Habeas Corpus. The Court makes no determination as to the merits of this case.

Before Petitioner may appeal this decision, a Certificate of Appealability ("COA") must issue. *See* 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A COA may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. §

2253(c)(2). When a court denies relief on procedural grounds without addressing the merits of a habeas petition, a COA should issue if it is shown that jurists of reason would find it debatable whether the petitioner states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). Reasonable jurists could not debate the correctness of the Court's procedural ruling. Accordingly, the Court **DENIES** a COA. This case is **CLOSED**.

IT IS SO ORDERED.

S/Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Dated: May 17, 2017